



## 22 CFR Part 22

[Public Notice: 11465]

RIN 1400-AE15

### Schedule of Fees for Consular Services – Passport Security Surcharge

**AGENCY:** Department of State.

**ACTION:** Final rule.

**SUMMARY:** This rule adopts as final the notice of proposed rulemaking (NPRM) published in the Federal Register on March 26, 2021. This final rule adjusts the Schedule of Fees for Consular Services (Schedule of Fees) by increasing the passport book security surcharge (PSS) from \$60 to \$80. This increase reflects increases in security-related costs for processing passports attributed to the PSS. Increases in security-related costs are largely due to a 37 percent increase in compensation costs for passport adjudicators and enhanced printing technology costs for the Next Generation (NextGen) passport book. Based on FY 2022 projections of 15.9 million passport products for which the PSS is included as part of the overall fee (passport books, and passport books and card combinations), the Department anticipates an additional \$318 million in revenue. The Department retains all PSS revenue, and it is used to cover the costs associated with passport application processing that support enhanced border security. The adjustment will result in a more accurate alignment of the fees for consular services to the costs of providing the services.

**DATES:** This final rule is effective on [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**FOR FURTHER INFORMATION CONTACT:** Johanna Cruz, Management Analyst, Office of the Comptroller, Bureau of Consular Affairs, Department of State; phone: 202-485-8915, telefax: 202-485-6826; e-mail: [fees@state.gov](mailto:fees@state.gov).

**SUPPLEMENTARY INFORMATION:**

## **Background**

This final rule adjusts the Schedule of Fees for Consular Services (Schedule of Fees) by increasing the PSS from \$60 to \$80. The Department of State (Department) published a NPRM on March 26, 2021 (86 FR 16149), with 60 days provided for public comment. This rule addresses the two comments received by the Department. Justification for this rulemaking and PSS change, including relevant authorities and information on the study used to calculate this surcharge, can be found in the NPRM.

## **Analysis of Comments:**

As noted above, the Department received two comments in response to the NPRM. One commenter requested to view the entire activity dictionary, or at least the list of activities before and after it was streamlined. The commenter suggested that this comparison would allow the public to understand what tasks changed and how those changes led to the fee increase. As explained in the NPRM, the activity dictionary changes focused on standardizing and clarifying tasks, ultimately improving accuracy in cost assignments. These changes resulted in more security-related costs being attributed to the PSS, since this methodology update determined more precisely which passport activities are security-related and assigned them accordingly. For example, the new dictionary has an activity called “Adjudicate,” which combines several of the previous model’s sub-activities (or tasks) like “process and adjudicate first-time passport applications for Minors (DS-11),” “process and adjudicate passport renewal applications (DS-82),” and “process EPDP [emergency photo digital passport] passports.” The Department found that these sub-activities could be consolidated, because they require the same amount of effort and resources and follow the same process steps. The consolidated activities help reduce possibilities for over-, mis-, or under-attribution of costs to the sub-activity level. By consolidating the sub-activities, the model more accurately reflects the activities required to accept, adjudicate, and issue passports and better assigns costs more consistently to those activities. It is important to note, however, that the activity dictionary update is not the main

driver that led to the proposed increase in the PSS. The Department has experienced a steady increase each year in costs associated with passport application processing that support enhanced border security since the last adjustment to the PSS. As detailed in the NPRM, the increases in security-related costs are largely due to an increase in compensation costs for passport adjudicators (an approximately \$8.00 per unit increase), passport books (a \$7.00 per unit increase), and enhanced printing technology costs for the more secure Next Generation (NextGen) passport books that include state-of-the-art anti-counterfeiting improvements (a \$3.45 per unit increase). Other less significant increases and decreases in the many other cost categories comprise the small remainder of the \$20.00 cost increase.

A second comment, which was duplicated three times, suggested that the fee increase is too high and that every taxpayer should receive no-fee services as tax dollars should fund this activity. While the Department is sympathetic to the impact the fee increase may have on those who seek this service, the Department generally sets consular fees at an amount calculated to achieve full cost recovery for the U.S. Government of providing the consular service, consistent with its statutory authorities and guidance from the Office of Management and Budget (OMB). As set forth in OMB Circular A-25, as a general policy, each identifiable recipient should pay a user charge for government services, resources, or goods from which he or she derives a special benefit, at an amount sufficient for the U.S. Government to recover the full costs of providing the service, resource, or good. *See* OMB Circular No. A-25, sec. 6(a)(1), (a)(2)(a). Similarly, the Government Accountability Office's Federal User Fees Guide (<https://www.gao.gov/products/gao-08-386sp>) states that "user fees can be designed to reduce the burden on taxpayers to finance the portions of activities that provide benefits to identifiable users above and beyond what is normally provided to the public. By charging the costs of those programs or activities to beneficiaries, user fees can also promote economic efficiency and equity."

Fees collected for passport processing and retained by the Department are the main source of operational funding for the Passport office, which typically does not rely on taxpayer or appropriated funding to support its operations. Passport fees are set based on the costs the Department incurs in processing passports and charged only to individuals applying for a passport. While the PSS is proposed to increase 33 percent, it is only one component of the overall adult passport book fee. The PSS increase will result in an increase from \$110 to \$130 in the overall passport book application fee for adults seeking a renewal (DS-82), which is an 18 percent increase overall, or a 1.8 percent increase each year during the 10-year validity of an adult passport book. This increase to the PSS is necessary to assist the Department in its effort to continue to support services, such as passport services, that benefit only identifiable recipients instead of the general public. These services are funded primarily with fee collections instead of taxpayer dollars/appropriations.

**Conclusion:**

The Department will adjust the PSS in light of the Cost of Service Model's findings that the U.S. government is not recovering fully its costs related to enhanced border security for passport services. Consistent with OMB guidance, the Department endeavors to recover through user fees the cost of services that provide special benefits to an identifiable recipient beyond those that accrue to the general public. *See* OMB Circular A-25, sec. 6(a)(1), (a)(2)(a). For this reason, the Department will adjust the Schedule of Fees.

**Regulatory Findings****Administrative Procedure Act**

The Department published this rulemaking as a proposed rule and provided 60 days for public comment. It will be effective 60 days after publication, in accordance with 5 U.S.C. 553(d).

**Regulatory Flexibility Act**

Item No.	Fee	Current Fee	Change in Fee	Percentage Increase	Estimated Annual Number of Applications <sup>1</sup>	Estimated Change in Annual Fees Collected <sup>2</sup>
<b>SCHEDULE OF FEES FOR CONSULAR SERVICES</b>						

* * * * *						
<b>PASSPORT AND CITIZENSHIP SERVICES</b>						
2. Passport Book Application Services for: (g) Passport book security surcharge (enhanced border security fee)	\$80	\$60	\$20	33.33%	<b>FY22:</b> 15,900,000	<b>FY22:</b> \$318,000,000
<b>Total</b>	80	60	20	33.33	15,900,000	\$318,000,000
* * * * *						

<sup>1</sup> Projected passport workload is FY 2022 receipts projected by the PPT directorate as of July 2021.

<sup>2</sup> The Department of State retains this fee.

<sup>3</sup> The Department anticipates implementing this fee change in FY 2022. FY 2022 volumes are used to project fee collection totals.

As noted in the NPRM, the Department of State does not anticipate that demand for passport services will change significantly as a result of this rule. The price of a passport book or card will remain minor in comparison with other costs associated with foreign travel. As a result, the Department does not believe passport demand will be significantly affected by the new fee. This is especially true because an adult passport book is valid for 10 years, and a minor passport book is valid for 5 years or until the applicant turns 18. As a result, the cost to the applicant of the PSS increase is spread over the lifetime of the passport book use.

Executive Order 12372 and 13132

This regulation will not have substantial direct effects on the states, on the relationship between the National Government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism

implications to require consultations or warrant the preparation of a federalism summary impact statement. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this regulation.

Executive Order 13175

The Department has determined that this rulemaking will not have tribal implications, will not impose substantial direct compliance costs on Indian tribal governments, and will not preempt tribal law. Accordingly, the requirements of Executive Order 13175 do not apply to this rulemaking.

Paperwork Reduction Act

This rule does not impose any new reporting or record-keeping requirements subject to the Paperwork Reduction Act.

**List of Subjects in 22 CFR Part 22**

Consular services, Fees.

Accordingly, for the reasons stated in the preamble, 22 CFR part 22 is amended as follows:

**PART 22—SCHEDULE OF FEES FOR CONSULAR SERVICES—DEPARTMENT OF STATE AND FOREIGN SERVICE**

1. Revise the authority citation for part 22 to read as follows:

Authority: 8 U.S.C. 1101 note, 1153 note, 1157 note, 1183a note, 1184(c)(12), 1201(c), 1351, 1351 note, 1713, 1714, 1714 note; 10 U.S.C. 2602(c); 22 U.S.C. 214, 214 note, 1475e, 2504(h), 2651a, 4206, 4215, 4219, 6551; 31 U.S.C. 9701; E.O. 10718, 22 FR 4632, 3 CFR, 1954-1958 Comp., p. 382; E.O. 11295, 31 FR 10603, 3 CFR, 1966-1970 Comp., p. 570.

2. In § 22.1, amend the table by revising entry 2(g) under the heading “Passport and Citizenship Services” to read as follows:

**§ 22.1 Schedule of fees.**

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### Schedule of Fees for Consular Services

Item No.	Fee
<b>SCHEDULE OF FEES FOR CONSULAR SERVICES</b>	
<b>Passport and Citizenship Services</b>	
* * * * *	
2. Passport Book Application Services for:	
* * * * *	
(g) Passport book security surcharge (enhanced border security fee)	\$80
* * * * *	

**Rena Bitter,**

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**Billing Code: 4710-06**

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